IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 21060 of 1997

Between:

1 Thatukuru Sasi Rekha W/o. T.Srinivasan,
R/o. Plot No.87, Near Vengalarao Nagar,
Kalyana Nagar, Hyderabad.
2 Gorntla Hima Bindu D/o. Sri G.Lakshmana Rao,
R/o. Sowmya Kakatiya Apartments, II Floor, S-6, Behind Vinayak Theatre,
Ring Road, Vijayawada-8.

..... PETITIONERS

AND

1 A.P.Industrial Development Corporation Ltd.,
Parishram Bhavan, Basheerbagh, Hyderabad.
2 M/s. Sitaram Salts and Chemicals Ltd.,
Punadipadu, Kakkipadu Mandal, Krishna District.

(R2- Dismissed for default as per Court order, dated 22-9-2004)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in bringing the Residential House bearing No. 5-13 and Old No.3-121 of Punadipadu Village, Kankipadu Mandal, Krishna District, as per the Auction Notice published in Eenadu Telugu Daily News Paper, Vijayawada Edition, on 23.8.97 as illegal, arbitrary, opposed to the principles of natural justice, without authority, null and void.

Counsel for the Petitioners: MR.MOVVA CHANDRASHEKAR RAO

Counsel for the Respondent No.1: GP FOR INDUSTRIES & COMMERCE

Counsel for the Respondent No.2: --

The Court made the following :

ORDER:

Questioning the validity of the auction notice issued by the first respondent, published in 'Eenadu Daily', dated 23-8-1997, proposing to sell by public auction to be held on 04-9-1997, the residential house bearing Door No.5-31 and old No.3-121, constructed in an area of Ac.0-23 cents situated in Punadipadu village, Kankipadu Mandal of Krishna District, the petitioners filed the present writ petition.

It is the case of the petitioners that the second respondent-company obtained certain loans from the first respondent-corporation and in that connection, their father, Sri G. Laxmana Rao, who is the Managing Director of the second respondent, hypothecated the residential house, which is now put to sale by the impugned auction notice on account of the default committed by the second respondent in payment of the loan amount due to the first respondent. It is stated that since the first respondent-corporation did not advance the full sanctioned loan and as the A.P. State Finance Corporation did not release any amount out of the sanctioned loan amount, the second respondent company had become sick even before it started production.

The petitioners state that the said residential house is their ancestral property and they being daughters have got 2/3rd share in it, as per the provisions of Section 29-A of the Hindu Succession (A.P. Amendment Act, 1985) Act, and therefore, the first respondent cannot sell the entire house for recovery of the amount due. They claim to have submitted a representation, dated 01-9-1997 bringing the said fact to the notice of Managing Director of the first respondent and requesting him to examine the matter and stop all further proceedings. But the first respondent, without considering their representation and without providing them an opportunity of being heard and without giving them even a notice, is proceeding to sell the entire house in public auction, which is illegal and contrary to law. Hence, the writ petition.

Heard the learned counsel for the petitioners.

Though the writ petition was admitted and ad-interim stay of the auction was granted on 03-09-1997, and in spite of service of notice on the first respondent, nobody appeared on behalf of the first respondent. Hence, this Court on 10-03-2005 directed to print the name of the Standing Counsel for the first respondent. Even then, nobody appeared on behalf of the first respondent. No counter-affidavit was filed denying the allegations made in the affidavit filed in support of the writ petition. No interest is shown either by the Standing Counsel or by the first respondent in prosecuting the matter.

In the circumstances, this court has no other alternative except to presume that the pleas raised by the petitioners in the affidavit filed in support of the writ petition are true and the first respondent has no defence for that. Accordingly, the writ petition is allowed. No costs.

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N.V. RAMANA, J

Date: 25-3-2005

Svv

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the Twenty Fifth day of March, Two thousand and Five.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 A.P.Industrial Development Corporation Ltd.,
Parishram Bhavan, Basheerbagh, Hyderabad.

2 Two CCs. to the Government Pleader for Industries and Commerce, High Court Buildings, A.P., Hyderabad (OUT).

3 Two CD copies